

Family Matters: Pre-Nuptial Agreements

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Pre-Nups (or to give them their more modern name, Pre-Marital Agreements) are becoming significantly more widespread. Traditionally, pre-nups in England have been treated as not worth the paper on which they are written and somewhat distasteful. However, the Courts are becoming increasingly prepared to enforce the terms of a Pre-Nup.

The recent case of *Crossley v Crossley* has strengthened the Pre-Nup in English law. In that case, Mrs Crossley sought to persuade the Court that she should not be bound by her Pre-Nup, alleging that Mr Crossley had failed to declare all of his wealth when the Pre-Nup was made before their very short marriage. Mr Crossley pointed out that Mrs Crossley was already a very wealthy woman when she met him after divorcing three previous husbands. She was, in his words, a “career divorcee”.

The Court of Appeal made it clear that it was entirely permissible for the Court to short circuit the normally lengthy legal procedure to resolve the financial dispute between spouses by first addressing the issue of whether or not Mrs Crossley was bound by the pre-nup. Its decision had nothing to do with whether or not it felt that Mrs Crossley was a career divorcee or otherwise. Instead, it justified its decision by saying that the original trial judge, Mr Justice Bennett had showed admirable judicial initiative and good sense in saying that this crucial initial issue had to be addressed first.

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